

**U.S. District Court
Eastern District of Virginia – (Alexandria)
CIVIL DOCKET FOR CASE #: 1:18-cv-01301-LO-JFA**

Humane Society of the United States et al v. U.S. Fish and
Wildlife Service et al

Assigned to: District Judge Liam O'Grady
Referred to: Magistrate Judge John F. Anderson
Cause: 05:552 Freedom of Information Act

Date Filed: 10/18/2018

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

Humane Society of the United States

represented by **Neal David Mollen**
Paul Hastings LLP (DC)
875 15th St NW
Washington, DC 20005
(202) 551-1700
Email: nealmollen@paulhastings.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Humane Society International

represented by **Neal David Mollen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Center for Biological Diversity

represented by **Neal David Mollen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Born Free USA

represented by **Neal David Mollen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

U.S. Fish and Wildlife Service

represented by **R. Trent McCotter**
United States Attorney's Office
(Alexandria)
2100 Jamieson Ave
Alexandria, VA 22314
703-299-3845
Email: trent.mccotter@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

U.S. Department of the Interior

represented by **R. Trent McCotter**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/18/2018	<u>1</u>	COMPLAINT against U.S. Department of the Interior, U.S. Fish and Wildlife Service (Filing fee \$ 400, receipt number 0422-6322593.), filed by Humane Society of the

		United States, Humane Society International, Born Free USA, Center for Biological Diversity. (Attachments: # <u>1</u> Civil Cover Sheet)(dvanm,) (Entered: 10/19/2018)
10/19/2018	<u>2</u>	DOCUMENT REMOVED FILED IN ERROR Proposed Summons re <u>1</u> Complaint, <i>US Attorney for the Eastern District of Virginia</i> by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Mollen, Neal) (Main Document 2 replaced on 10/22/2018) (dvanm,). Modified on 10/22/2018 (dvanm,). (Entered: 10/19/2018)
10/19/2018	<u>3</u>	DOCUMENT REMOVED FILED IN ERROR Proposed Summons re <u>1</u> Complaint, <i>Acting Solicitor, U.S. Department of the Interior</i> by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Mollen, Neal) (Main Document 3 replaced on 10/22/2018) (dvanm,). Modified on 10/22/2018 (dvanm,). (Entered: 10/19/2018)
10/19/2018	<u>4</u>	DOCUMENT REMOVED FILED IN ERROR Proposed Summons re <u>1</u> Complaint, <i>Acting Director, U.S. Fish and Wildlife Service</i> by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Mollen, Neal) (Main Document 4 replaced on 10/22/2018) (dvanm,). Modified on 10/22/2018 (dvanm,). (Entered: 10/19/2018)
10/22/2018		Notice of Correction re <u>4</u> Proposed Summons, <u>3</u> Proposed Summons, <u>2</u> Proposed Summons. The filing user has been notified that documents 2–4 are incorrectly saved PDF fillable form and has been removed. The filing user was directed to refile the documents. (dvanm,) (Entered: 10/22/2018)
10/22/2018	<u>5</u>	Proposed Summons re <u>1</u> Complaint, <i>Daniel Jorjani, Principle Deputy Solicitor, U.S. Department of the Interior</i> by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Mollen, Neal) (Entered: 10/22/2018)
10/22/2018	<u>6</u>	Proposed Summons re <u>1</u> Complaint, <i>G. Zachary Terwilliger, U.S. Attorney for Eastern District of Virginia</i> by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Mollen, Neal) (Entered: 10/22/2018)
10/22/2018	<u>7</u>	Proposed Summons re <u>1</u> Complaint, <i>James Kurth, Acting Director, U.S. Fish and Wildlife Service</i> by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Mollen, Neal) (Entered: 10/22/2018)
10/23/2018	<u>8</u>	Summons Issued as to U.S. Department of the Interior, U.S. Fish and Wildlife Service, U.S. Attorney and U.S. Attorney General. NOTICE TO ATTORNEY: Print out two electronically issued summons and one copy of the attachments for each defendant to be served with the complaint. (Attachments: # <u>1</u> Notice)(dvanm,) (Entered: 10/23/2018)
11/09/2018	<u>9</u>	SUMMONS Returned Executed as to the Department of the Interior and U.S. Fish and Wildlife Service (dvanm,) (Entered: 11/09/2018)
11/13/2018	<u>10</u>	SUMMONS Returned Executed by Humane Society of the United States. U.S. Attorney's Office served on 11/7/2018, answer due 1/7/2019. (dvanm,) (Entered: 11/13/2018)
11/14/2018	<u>11</u>	Motion to appear Pro Hac Vice by Charles Patrizia and Certification of Local Counsel Neal Mollen Filing fee \$ 75, receipt number 0422–6363722. by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Mollen, Neal) (Entered: 11/14/2018)
11/14/2018	<u>12</u>	Motion to appear Pro Hac Vice by Scott Flicker and Certification of Local Counsel Neal Mollen Filing fee \$ 75, receipt number 0422–6363738. by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Mollen, Neal) (Entered: 11/14/2018)
11/14/2018	<u>13</u>	Motion to appear Pro Hac Vice by Noah Simmons and Certification of Local Counsel Neal Mollen Filing fee \$ 75, receipt number 0422–6363755. by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Mollen, Neal) (Entered: 11/14/2018)

11/15/2018	<u>14</u>	ORDER granting <u>11</u> Motion for Pro hac vice for Charles Patrizia. Signed by District Judge Liam O'Grady on 11/15/2018. (dest,) (Entered: 11/16/2018)
11/15/2018	<u>15</u>	ORDER granting <u>12</u> Motion for Pro hac vice for Scott Flicker. Signed by District Judge Liam O'Grady on 11/15/2018. (dest,) (Entered: 11/16/2018)
11/15/2018	<u>16</u>	ORDER granting <u>13</u> Motion for Pro hac vice for Noah Simmons. Signed by District Judge Liam O'Grady on 11/15/2018. (dest,) (Entered: 11/16/2018)
12/03/2018	<u>17</u>	ORDERED that on or before January 7, 2019, Defendants shall file a response to the complaint; it is further ORDERED that if Defendants' response is a dispositive motion, Plaintiffs' opposition brief is due on or before February 4, 2019, and Defendants' reply brief is due on or before February 18, 2019. Signed by District Judge Liam O'Grady on 12/03/2018. (dvanm,) (Entered: 12/04/2018)
01/04/2019	<u>18</u>	MOTION to Dismiss for Lack of Jurisdiction by U.S. Department of the Interior, U.S. Fish and Wildlife Service. (McCotter, R.) (Entered: 01/04/2019)
01/04/2019	<u>19</u>	MOTION to Dismiss for Failure to State a Claim by U.S. Department of the Interior, U.S. Fish and Wildlife Service. (McCotter, R.) (Entered: 01/04/2019)
01/04/2019	<u>20</u>	MOTION to Strike by U.S. Department of the Interior, U.S. Fish and Wildlife Service. (McCotter, R.) (Entered: 01/04/2019)
01/04/2019	<u>21</u>	Memorandum in Support re <u>19</u> MOTION to Dismiss for Failure to State a Claim , <u>18</u> MOTION to Dismiss for Lack of Jurisdiction , <u>20</u> MOTION to Strike filed by U.S. Department of the Interior, U.S. Fish and Wildlife Service. (McCotter, R.) (Entered: 01/04/2019)
01/04/2019	<u>22</u>	Notice of Hearing Date set for March 1, 2019 re <u>19</u> MOTION to Dismiss for Failure to State a Claim , <u>18</u> MOTION to Dismiss for Lack of Jurisdiction , <u>20</u> MOTION to Strike (McCotter, R.) (Entered: 01/04/2019)
01/07/2019		Set Deadlines as to <u>19</u> MOTION to Dismiss for Failure to State a Claim , <u>18</u> MOTION to Dismiss for Lack of Jurisdiction , <u>20</u> MOTION to Strike . Motion Hearing set for 3/1/2019 at 10:00 AM in Alexandria Courtroom 1000 before District Judge Liam O'Grady. (clar,) (Entered: 01/07/2019)
01/14/2019	<u>23</u>	Consent MOTION for Leave to File Excess Pages for <i>Consolidated Memorandum in Opposition to Defendants' Partial Motions to Dismiss and Motion to Strike and Brief in Support Thereof</i> by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Attachments: # <u>1</u> Proposed Order)(Mollen, Neal) (Entered: 01/14/2019)
01/15/2019	<u>24</u>	ORDER granting <u>23</u> Motion for Leave to File Excess Pages. Plaintiffs will be permitted to file a single 40–page memorandum in opposition to Defendants' Motions. Signed by District Judge Liam O'Grady on 01/15/2019. (dvanm,) (Entered: 01/15/2019)
01/24/2019	<u>25</u>	AMENDED COMPLAINT against U.S. Department of the Interior, U.S. Fish and Wildlife Service, filed by Humane Society of the United States, Humane Society International, Born Free USA, Center for Biological Diversity. (Attachments: # <u>1</u> Redline of original complaint to amended complaint, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2)(Mollen, Neal) (Entered: 01/24/2019)
01/28/2019	<u>26</u>	ORDER– Accordingly Defendant's Motions to Dismiss Dkt's <u>18</u> , <u>19</u> , and Motion to Strike <u>20</u> are hereby DENIED WITHOUT PREJUDICE as they have become moot. Signed by District Judge Liam O'Grady on 1/28/2019. (See order for further details). (acha,) (Entered: 01/28/2019)
02/01/2019	<u>27</u>	ORDERED that on or before February 21,2019, Defendants shall file a response to the complaint; it is further ORDERED that if Defendants' response is a motion to dismiss. Plaintiffs' opposition brief is due on or before March 21,2019, and Defendants' reply brief is due on or before April 4, 2019. Signed by District Judge Liam O'Grady on 02/01/2019. (dvanm,) (Entered: 02/01/2019)
02/21/2019	<u>28</u>	Consent MOTION for Extension <i>One Day Extension of Briefing Schedules</i> by U.S. Department of the Interior, U.S. Fish and Wildlife Service. (Attachments: # <u>1</u> Proposed Order)(McCotter, R.) (Entered: 02/21/2019)

02/22/2019	<u>29</u>	ORDER granting <u>28</u> Motion for Extension of Time to File. ORDERED that on or before February 22, 2019, Defendants shall file a response to the amended complaint; it is further ORDERED that if Defendants' response is a motion to dismiss, Plaintiffs' opposition brief is due on or before March 22, 2019, and Defendants' reply brief is due on or before April 5, 2019. Signed by Magistrate Judge John F. Anderson on 02/22/2019. (wgar,) (Entered: 02/22/2019)
02/22/2019	<u>30</u>	MOTION to Dismiss for Lack of Jurisdiction by U.S. Department of the Interior, U.S. Fish and Wildlife Service. (McCotter, R.) (Entered: 02/22/2019)
02/22/2019	<u>31</u>	MOTION to Dismiss for Failure to State a Claim by U.S. Department of the Interior, U.S. Fish and Wildlife Service. (McCotter, R.) (Entered: 02/22/2019)
02/22/2019	<u>32</u>	Memorandum in Support re <u>30</u> MOTION to Dismiss for Lack of Jurisdiction , <u>31</u> MOTION to Dismiss for Failure to State a Claim filed by U.S. Department of the Interior, U.S. Fish and Wildlife Service. (Attachments: # <u>1</u> Exhibit Rose Declaration)(McCotter, R.) (Entered: 02/22/2019)
02/22/2019	<u>33</u>	Notice of Hearing Date set for April 12, 2019 re <u>30</u> MOTION to Dismiss for Lack of Jurisdiction , <u>31</u> MOTION to Dismiss for Failure to State a Claim (McCotter, R.) (Entered: 02/22/2019)
02/25/2019		Set Deadlines as to <u>31</u> MOTION to Dismiss for Failure to State a Claim , <u>30</u> MOTION to Dismiss for Lack of Jurisdiction . Motion Hearing set for 4/12/2019 at 10:00 AM in Alexandria Courtroom 1000 before District Judge Liam O'Grady. (clar,) (Entered: 02/25/2019)
02/28/2019	<u>34</u>	Notice of Hearing Date <i>AMENDED</i> set for April 19, 2019 re <u>30</u> MOTION to Dismiss for Lack of Jurisdiction , <u>31</u> MOTION to Dismiss for Failure to State a Claim (McCotter, R.) (Entered: 02/28/2019)
03/01/2019		Reset Deadlines as to <u>31</u> MOTION to Dismiss for Failure to State a Claim , <u>30</u> MOTION to Dismiss for Lack of Jurisdiction . Motion Hearing set for 4/19/2019 at 10:00 AM in Alexandria Courtroom 1000 before District Judge Liam O'Grady. (clar,) (Entered: 03/01/2019)
03/14/2019	<u>35</u>	MOTION for Leave to File Excess Pages <i>Unopposed</i> by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Attachments: # <u>1</u> Proposed Order)(Mollen, Neal) (Entered: 03/14/2019)
03/15/2019	<u>36</u>	ORDER granting <u>35</u> Motion for Leave to File Excess Pages Unopposed Signed by District Judge Liam O'Grady on 3/15/2019. (See order for further details). (acha,) (Entered: 03/15/2019)
03/22/2019	<u>37</u>	RESPONSE in Opposition re <u>31</u> MOTION to Dismiss for Failure to State a Claim , <u>30</u> MOTION to Dismiss for Lack of Jurisdiction filed by Born Free USA, Center for Biological Diversity, Humane Society International, Humane Society of the United States. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Mollen, Neal) (Entered: 03/22/2019)
04/05/2019	<u>38</u>	REPLY to Response to Motion re <u>30</u> MOTION to Dismiss for Lack of Jurisdiction , <u>31</u> MOTION to Dismiss for Failure to State a Claim filed by U.S. Department of the Interior, U.S. Fish and Wildlife Service. (Attachments: # <u>1</u> Exhibit Declaration)(McCotter, Richard) (Entered: 04/05/2019)
04/19/2019	<u>39</u>	Minute Entry for proceedings held before District Judge Liam O'Grady: Motion Hearing held on 4/19/2019 re <u>30</u> MOTION to Dismiss for Lack of Jurisdiction filed by U.S. Department of the Interior, U.S. Fish and Wildlife Service, <u>31</u> MOTION to Dismiss for Failure to State a Claim filed by U.S. Department of the Interior, U.S. Fish and Wildlife Service. Counsel enter their appearances and present arguments. Court takes matters under advisement. (Court Reporter N. Linnell.)(awac,) (Entered: 04/19/2019)
05/01/2019	<u>40</u>	TRANSCRIPT of motions hearing held on 4-19-2019 before Judge Liam O'Grady. Court Reporter Norman Linnell, telephone number 703-549-4626. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have thirty(30) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be made remotely electronically available

		<p>to the public without redaction after 90 calendar days. The policy is located on our website at www.vaed.uscourts.gov Transcript may be viewed at the court public terminal or purchased through the court reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER Redaction Request due 5/31/2019. Redacted Transcript Deadline set for 7/1/2019. Release of Transcript Restriction set for 7/30/2019.(linnell, norman) (Entered: 05/01/2019)</p>
--	--	---